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IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF OREGON

UNITED STATES OF AMERICA,  
Plaintiff,  
-VS-  
JON RITZHEIMER,  
Defendant

Case No. 3:16-CR-00051-02-BR

DEFENDANT'S SUPPLEMENTAL MOTION  
AND MEMORANDUM FOR PRETRIAL  
RELEASE

Jon Ritzheimer, through counsel Terri Wood, moves the Court to order his pretrial release on conditions as may be recommended by U.S. Pretrial Services. Mr. Ritzheimer has met with a Pretrial Services officer for the District of Oregon, and promised in person to abide by all conditions set by the Court, and all instructions from Pretrial Services.

MEMORANDUM FOR PRETRIAL RELEASE

This Court well knows the law governing pretrial release determinations, so we start with the facts.

1. Mr. Ritzheimer's character and background establishes he would not be a flight risk nor danger to the community if conditionally released.

Mr. Ritzheimer has spent most of his adult life serving his country in the U.S. Marine Corps and its Reserves. He enlisted in 2003, honorably discharged 2010, then re-enlisted the next day in the USMC Reserves, and honorably discharged in 2014. During those 11 years he rose through the ranks to Staff Sergeant. He served two tours of duty in Iraq (2004-2005, driver in 60 convoy missions; 2007-2008, 160 re-supply convoys, 4 months continuous combat operations). He distinguished himself in service to his country. He received commendations from our government attesting to his "loyal dedication to duty," and "honest and faithful service in keeping with the highest traditions of the Marine Corps."<sup>1</sup>

Neill Thornton, a veteran who served with Ritzheimer in the Marine Corps' 4<sup>th</sup> Tank Battalion, and remains employed by the U.S. Navy, states: "Jon and I served on the same four-person truck crew during a combat deployment to Iraq in 2008. This was an eight-month deployment that required us to live in close quarters in austere conditions, essentially living out of the vehicle for months on end as we patrolled the deserts . . . . It was during these harsh conditions that I was able to see Jon's true personality shine. I would describe him as an extremely dependable person who will always follow through on his word."<sup>2</sup>

Joel Cox, a former Sergeant who served in this same battalion, deployed with Ritzheimer in support of Operation Iraqi Freedom. He states: "Jon is a good

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<sup>1</sup> Mr. Ritzheimer received two [Distinguished Service Awards](#), two Certificates of Commendation, an Achievement Medal, and a Meritorious Mast. He also received awards for community service with Toys for Tots.

<sup>2</sup> See Letter and Witness Interview, Exhibit 101-A (redacted). Personal identifier information in all defense exhibits has been redacted, but unredacted copies of these same materials are furnished to the Government and Pretrial Services.

man and more importantly a good Marine, never afraid to speak his mind. . . . Jon is not a criminal, nor is he a domestic terrorist or any other threat to law-abiding American citizens. . . . Jon was brave enough to stand up for what he believes in, to show his support by standing with others with whom he and many others are in agreement even though theirs may be the unpopular or ‘politically incorrect’ stance.”

The Marine Corps’ core values have forged Mr. Ritzheimer’s character. “Becoming a Marine is a transformation that cannot be undone . . . . Once made, a Marine will forever live by the ethics and values of the Corps.”<sup>3</sup> Those values are Honor, Courage and Commitment. Honor is “a code of personal integrity” that holds Marines “to the highest standards, ethically and morally.” Courage “takes the form of mental, physical and ethical strength” that is “found in the backbone of every Marine.” Commitment “is the spirit of determination” that “proves one’s desire, dedication and faithfulness.”<sup>4</sup>

Mr. Ritzheimer has given his word to Pretrial Services that he will abide by all conditions of release imposed by the Court, and all instructions from his Pretrial Services officer. His distinguished military history, alone, should suffice to show he is neither a flight risk nor a danger to the community. But there are plenty of more facts supporting his release.

Mr. Ritzheimer left the Malheur National Wildlife Preserve (hereafter “the Refuge”) on January 24<sup>th</sup> to return home, two days before the Bundys and other co-defendants were arrested in Burns. He self-surrendered to local law enforcement in his Arizona hometown on January 26<sup>th</sup>, upon learning of this District’s arrest warrant issued that same date. U.S. Pretrial Services in Arizona recommended his release, but he was ordered detained. At that time, some

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<sup>3</sup> [www.marines.com/history-heritage/principles-values](http://www.marines.com/history-heritage/principles-values) (last accessed 3-13-2016).

<sup>4</sup> *Id.*, Note 3, *supra*.

people involved in the protest remained inside the Refuge, and in a standoff with law enforcement. Those individuals surrendered peacefully to authorities about a week later.



Mr. Ritzheimer is married, with two young daughters. He loves and supports them, as corroborated by many of the letters attached in Exhibit 101. His wife and children want him home. His wife Rachel states, “[P]lease allow my husband to face his charges as a free man. My little girls need their daddy and I need my husband back. . . . I have witnessed him time after time keep appointments with the FBI, or local Agencies wherever they saw fit for a meeting. Honor and integrity are the basis of his character and I am positive he will not run.” Exhibit 101-H. They own a home in Arizona, but if ordered to remain on release in Oregon, Mr. Ritzheimer has family in the Portland area who are willing to house

him for the duration, along with his wife and children. Specifics of this alternative and less-favored release plan have been provided to Pretrial Services.

Mr. Ritzheimer has no prior arrests or convictions. Surely this is an unlikely record for an individual portrayed by the Government as having “long been associated with armed conflicts with the federal government.”<sup>5</sup> According to long-time friends, neighbors, family members and former Marines—some of whom have spoken with the defense investigator as well in written letters attached in Exhibit 101—Mr. Ritzheimer is passionate about his beliefs, but non-violent. His cousin, who grew up with him, states: “Some of Jon’s beliefs might be outrageous to certain people. But it’s what he believes in. That shouldn’t be a crime. Some of the things Jon says might be offensive to certain people. But he’s just speaking his mind. That shouldn’t be a crime. Jon swore an oath to protect the constitution. And that should definitely not be a crime.” Exhibit 101-G. In anticipation of release, all of Mr. Ritzheimer’s firearms have been secured in a gun safe at another residence. See Exhibit 101-D.

Mr. Ritzheimer receives disability benefits for combat-related Post-Traumatic Stress Disorder and combat-related back injuries. The added stress and conditions of pretrial incarceration are likely to aggravate these conditions.<sup>6</sup> Neither the jail, nor FDC Sheridan, will provide the same quality of medical care he will get from the VA if released. Mr. Ritzheimer was not taking VA prescribed medications for his PTSD prior to or during the protest at the Refuge, but has

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<sup>5</sup> Amended United States’ Memorandum in Support of Pretrial Detention, p. 16, Case No. 16-6019MJ, District of Arizona.

<sup>6</sup> See, e.g., <http://www.npr.org/2015/11/05/454292031/behind-bars-vets-with-ptsd-face-a-new-war-zone-with-little-support> (last accessed 3-13-2016) (“Most treatment for PTSD involves winding down from the combat mind-set, and learning not to treat the world around you like a war zone. But behind bars, mental health treatment is rare and VA health care is suspended.”).

promised Pretrial Services that he will resume and fully participate in VA mental health services.

**2. Mr. Ritzheimer's past protest activities have been non-violent and consistent with his First and Second Amendment rights to free speech, association, assembly, and to bear arms.**

At his initial detention hearing in Arizona, the Government focused on Mr. Ritzheimer's "active presence on social media" denouncing Islam and supporting the militia movement during 2015.<sup>7</sup> Mr. Ritzheimer's quarrel with Islam is his view that its ideology promotes acts of terrorism by Muslims against American citizens, both here and abroad. The Government asserted his social media conduct shows Mr. Ritzheimer is a danger to society. For a much different perspective of his protest activities, see his mother's account, Exhibit 101-I. The District Court has released co-defendants in this cause where the Government made similar claims based on protected speech. See Government's Memorandum in Support of Pretrial Detention (#23), p.6 (Joseph O'Shaughnessy, video statements of recruiting others to join the armed protest and working to set up a security protection force to keep federal agents and corrupt government from coming through the gates), and p. 12 (Peter Santilli, video statements about having a bunch of guns he buried when a restraining order was filed against him to prevent being at the mercy of the system).

Despite engaging in passionate speech, often while carrying a firearm, neither Mr. Ritzheimer's statements in the media nor public demonstrations have resulted in violence. See, e.g., this photo of him shaking hands with the Imam at the Phoenix mosque days after a protest he organized and held outside the mosque.

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<sup>7</sup> Amended United States' Memorandum in Support of Pretrial Detention, *supra* Note 5, pages 16-19.



The Government also quoted alleged statements by Mr. Ritzheimer to portray his intent to travel to Michigan to arrest Senator Debbie Stabenow for her support of the Iranian nuclear arms deal, or die trying. Mr. Ritzheimer did not travel to Michigan.

**3. The weight of the evidence against Mr. Ritzheimer is weakened by false or inaccurate assertions in the Government's criminal complaint and detention filings.**

**The December 18<sup>th</sup> incident at Safeway, Burns, Oregon**

Beginning with the criminal complaint in this cause, and oft repeated in subsequent filings by the Government as the prime example of the *Bundy, et al,* case defendants directly threatening BLM-related citizens in Harney County, is a false statement: That on December 18, 2015, in the Safeway parking lot in

Burns, Mr. Ritzheimer and another man confronted a woman wearing a BLM shirt, saying they now knew her vehicle, and would follow it to her home, and would burn her house down. Mr. Ritzheimer and the other man (identified in the FBI 302 report of this citizen's complaint as co-defendant Blaine Cooper) were said to be driving a black pick up with a black canopy. The citizen reported she later saw a similar truck outside her residence, and again at her place of employment.

The truth is this: Mr. Ritzheimer was in Peoria, AZ on December 18<sup>th</sup>. His truck, which he later drove to Oregon, is a silver Ford pickup with no canopy, was serviced in Peoria on December 18<sup>th</sup>. See photo of truck, below, and service receipt,

attached

as

Exhibit 102.



On December 19<sup>th</sup> Mr. Ritzheimer left his home in Peoria, picked up his friend Blaine Cooper, and headed north, arriving in Meridian, ID, where he had dinner with a former Marine buddy. The defense has interviewed that individual who is a

law enforcement officer; that individual agreed to testify if subpoenaed but did not want to be identified prior to court proceedings due to his employment. Mr. Ritzheimer and Mr. Cooper passed through Burns on December 20<sup>th</sup>, enroute to a protest in Seattle, WA. The map below is based on an analysis of Mr. Ritzheimer's bank and credit card records.



The Government's argument in Arizona that the FBI had to negotiate Mr. Ritzheimer's surrender.

In its Amended Memorandum in Support of Detention, *supra*, n. 5, the Government asserted that after the arrest of his co-defendants and the homicide of Robert Finicum, "Ritzheimer was contacted by the FBI and requested that he self-surrender. After a couple of hours and numerous telephone calls, the FBI successfully negotiated with Ritzheimer to turn himself in at the Peoria Police Department." *Id.*, p. 3

The truth is that Mr. Ritzheimer—who did not know the Bundys or most of his co-defendants before meeting them in Burns—left the Refuge of his own accord to return to his family in Arizona. He left on January 24<sup>th</sup>, and got home on the 25<sup>th</sup>. Cell phone records obtained by the defense corroborate Mr. Ritzheimer's and his wife's recollections that there were four calls between 7:27 p.m. and 9:23 p.m., from or to Det. Michael Griffin with the Peoria Police Department, and never with the FBI. Mr. Ritzheimer requested and Det. Griffin agreed to give him an hour with his family before surrendering at the police department. Before the hour was up, Mr. Ritzheimer called Det. Griffin to request a small amount of additional time because his family was going to drive him to the station rather than a neighbor, and they needed to get the girls out of bed and dressed. The final call at 9:23 p.m. was to advise the family was enroute. Mr. Ritzheimer's recollection is further corroborated by a post-arrest email from Det. Griffin in response to an email from Mr. Ritzheimer's wife, stating in part, "I very much appreciate Jon working with me the other night by turning himself in at the police station."

The Government's selective quotations of statements allegedly made by Mr. Ritzheimer regarding Senator Stabenow.

On page 17 of its Arizona detention memorandum, the Government quotes portions of an open message purportedly written by Mr. Ritzheimer on 9/21/15 and posted to Facebook. But Mr. Ritzheimer's Facebook page has no such message. The quoted message was on Blaine Cooper's Facebook page. You can't believe everything you read on the Internet, but part of that posting attributed to Mr. Ritzheimer but omitted from the Government's memorandum states: "We do not seek violence but we will be armed and ready to defend and uphold our oath to the constitution. There is no reason these people [referring to Stabenow and other politicians] can't be held accountable and have their day in court. I have notified law enforcement about these intentions. We will be cooperating with them and try to keep this as smooth as possible so we don't have another 'Shot Heard Round The World' situation. If these people are innocent then it should be proven in court."

The protest attributed to Ritzheimer was actually to be a nationwide protest on October 11, 2015 against Islam, and Mr. Ritzheimer was quoted by the Southern Poverty Law Center, "saying he was not the 'mastermind' – 'No, I cannot take credit for such a wonderful rally.'" *Southern Poverty Law Center*, <https://www.splcenter.org/hatewatch/2015/10/09/militiamen-plan-bring-guns-mosques-around-nation-global-protest-islam> , accessed 3/13/2016. Mr. Ritzheimer attended the October 11<sup>th</sup> protest in Phoenix, as quoted in the online magazine *American Muslim Perspective*: "We're just exercising our first-amendment [free speech] rights. We're all about peace and love," said the organizer of the rally, former US marine Jon Ritzheimer..." *American Muslim Perspective*, <http://www.amperspective.com/anti-islam-anti-muslim-rallies-fizzle-nationwide/> , accessed 3/13/2016.

The Government's evidence against Mr. Ritzheimer is far from overwhelming.

In its criminal complaint, the authoring agent devotes two paragraphs to Mr. Ritzheimer, numbered 28-29, pages 13-14. The complaint selectively quotes parts of statements Mr. Ritzheimer made in the media on various days calling for patriots to join the protest and stating his willingness to die for the cause. It also contains a couple of photographs showing Mr. Ritzheimer armed with a rifle outside the front entrance to the Refuge. The complaint itself notes Mr. Ritzheimer's concern that they maintain a defensive posture based on (inaccurate) news that armed federal agents were headed that way. Mr. Ritzheimer feared a repeat of Waco would unfold.

The facts that Mr. Ritzheimer participated in the Bundy's protest, made public and often passionate statements in support of the protest, and carried a firearm outside the Refuge are not in dispute. Whether this constitutes illegal activity is a different matter. The charged crimes require proof beyond a reasonable doubt of criminal intent. There are challenges as to whether the statutes would be constitutional as applied to his conduct. The 18 USC 924(c) count is predicated on conspiracy to impede or injure an officer, which may not be a "crime of violence" under the case law evolving from *Johnson v. United States*, 135 S.Ct. 2551 (2015).

**4. Mr. Ritzheimer is not a flight risk, not a danger to the community, and should be granted release.**

Assuming at this stage that the superseding indictment charges a "crime of violence" to activate the rebuttable presumption of 18 USC §3142(e)(3)(B), it shifts a burden of production regarding release to the defendant; the burden of persuasion remains with the Government. See, *United States v. Hir*, 517 F3d

1081, 1086 (9<sup>th</sup> Cir. 2008). The quantum of evidence required to rebut this presumption is slight. A defendant need only produce some credible evidence forming a basis for his contention that he will appear and not pose a threat to the community. See, e.g., *United States v. Thomas*, 667 F.Supp 727, 728 (D. Or. 1987).

Mr. Ritzheimer has submitted ample proof that he is not a danger to the community: His Marine code of honor and service record; his clean criminal history; the absence of acts of violence at any of his earlier protests; the absence of any credible allegation that he directly threatened any citizen during the Bundys' protest, much less any law enforcement officer; and his voluntary surrender in Arizona. There is no plausible argument that he is a flight risk, given his desire for his day in court, his family support, and stable lifestyle.

DATED this 13<sup>th</sup> day of March, 2016.

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/s/ Terri Wood  
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